

REMARKS

This paper is submitted in response to the Office Communication mailed June 3, 2003 in the above-identified application. The Examiner asserts that Applicants' prior responses filed October 18, 2002, January 21, 2003 and April 8, 2003 were not fully responsive to the Restriction Requirement issued September 30, 2002 because Applicants' election of SEQ ID NO:39 does not constitute the election of only a single amino acid species. The Examiner further asserts that the sequence of SEQ ID NO:39 reads on the antibacterial peptides of Hoffman *et al.* (Immunol. Today 1992; 13:411-415).

In response, Applicants herein elect the peptide encoded by nucleotides 1 to 132 of SEQ ID NO:2. This peptide was disclosed in the instant specification on p. 7, lines 4-10. Thus, election of this peptide and amendment of the specification to clarify the identity of the peptide being claimed does not constitute the addition of new matter.

Applicants herein also amend Claims 2-20, 22 and 46 to conform to U.S. patent practice and to more particularly point out and distinctly claim the instant invention. Applicants assert that the amendments to Claims 2-20, 22 and 46 are supported by pp. 67-75 of the instant specification as originally filed. Thus, the amendments do not constitute the addition of new matter.

Regarding the Examiner's continued assertion that the peptide of general formula (I) read on the peptides disclosed in Figure 1 of Hoffman *et al.* (Immunol. Today 1992;13:411-415), Applicants reiterate that Peptides 1-6 of Fig. 1 do not fall within the bounds of general formula (I) because each of these peptides contains more than 10 amino acid residues between the first and second cysteine residues, which corresponds to Xab of general formula (I). Similarly, Peptide 7 of Fig. 1 does not fall within the bounds of general formula (I) because it contains

more than 9 amino acid residues between the third and fourth cysteine residues, which corresponds to Xad of general formula (I). Therefore, Applicants respectfully assert that Claim 1, as previously amended, is novel. Applicants respectfully request that, if the Examiner insists on maintaining his position that SEQ ID NO:39 reads on the peptides of Hoffman *et al.*, the Examiner should clearly specify how these peptides may fall within the limitations of SEQ ID NO:39.

Applicants believe that a fee of \$410.00 is due for a two-month extension of time through August 21, 2003 under 37 C.F.R. § 1.17(a)(2). Should any additional fees be required in connection with this response, or should any overpayment be made, the Commissioner is hereby authorized to charge and required fees or credit any overpayments to Deposit Account Number 02-4377. A duplicate copy of this communication is enclosed.

Respectfully submitted,



Bradley B. Geist
Patent Office Reg. No. 27,551

Rochelle K. Seide
Patent Office Reg. No. 32,300

Attorneys for Applicants

BAKER BOTTS L.L.P.
30 Rockefeller Center, 45th floor
New York, NY 10112
(212) 408-2500